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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,668	03/23/2001	Anthony Frank Menninger	41556/04744 (RSIIP090)	5764

7590 06/01/2004

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EXAMINER

GORT, ELAINE L

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 06/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/815,668

Applicant(s)

MENNINGER

Examiner

Elaine Gort

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5, 6, 8, 5</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 7-12 in Paper No. 8 is acknowledged.

Claims 1-6 and 13-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

Double Patenting

2. Claims 7-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over all the claims filed in the following Applications because they are not patentably distinct:

09/815490
09/815590
09/815598
09/815845
09/815864
09/816021
09/816069
09/816101
09/816187
09/816231
09/816249
09/816268
09/816285
09/816314
09/816426
09/816454
09/816471
09/816488
09/816491
09/816565
09/816896

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter; or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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4. Claims 7-12 are rejected because they lack patentable utility. Claims 7-12 merely claim the manipulation of data but perform no concrete, useful or tangible result. This rejection may be overcome by claiming the generation of a report or output of data.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al. (US Patent 4,799,156) in view of Barron's Dictionary of Business Terms.

Shavit et al discloses the claimed system for imposing regional restrictions in a supply chain management framework, comprising:

Logic for displaying a plurality of distribution centers of a supply chain utilizing user interfaces (such as the computer interfaces used by buyers to identify distributors and suppliers within the system, see figure 2, remote terminals discussed throughout document, for example see column 5, lines 20+; see column 6, lines 19+ regarding the access to multiple sources as well as freight services; see also column 11, lines 11+ regarding supplier procurement and freight arrangements);

Logic for identifying a "free on board (FOB)" point associated with a region in which the distribution centers reside (the system provides capability for a buyer to identify a seller of a good and arrange for freight to get the goods to the point at which

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the buyer receives the goods. Examiner construes that in order for the buyer to arrange for freight requirements, the system must inherently identify the "FOB" location of the goods. For example a buyer or distributor can communicate with a supplier to procure a needed item and concurrently communicate with a freight carrier to arrange for shipment. In order for the buyer or distributor to have the capability to handle delivery requirements the system inherently must provide the location of the goods at which point the buyer or distributor is responsible for paying for all shipping and other charges associated with transporting the goods to the buyer's or distributor's receiving point in order to arrange for the shipment. For example see column 6, lines 19+ and column 11, lines 10+; see also definition of "free on board" in Barron's Dictionary of Business Terms page 276);

Logic for forcing the distribution centers to use the "FOB" in response to a user action utilizing the user interface (for example when the user, such as a buyer or distributor, places an order with a supplier to procure a needed item, the user has effectively forced the distribution center to use that supplier and would be responsible for paying all shipping from the suppliers FOB location to the receiving point; column 11, lines 10+; see also definition of "free on board" in Barron's Dictionary of Business Terms page 276; see also operating agreements discussed in column 13, lines 35+);

Regarding claim 9, where the region is user-defined (the user, such as a buyer or distributor, defines the region when they select and communicate with the suppliers they are interested in procuring goods from, column 11, lines 10+);

Regarding claim 10, where a site role of each of the distribution centers is displayed (suppliers inherently identify their site role such as when they identify the location of the goods so that the buyer or distributor can make arrangements for freight; column 6, lines 19+; column 11, lines 10+);

Regarding claim 11, where the interface is displayed utilizing a network (column 5, lines 51+ disclose the use of a wide variety of networks);

But Shavit et al. is silent regarding the utilization of a graphical user interface incorporating icons and where the interface is a browser-based interface.

Barron's Dictionary of Business Terms discloses that it is known in the art to provide a graphical user interface to provide communication using visual feedback to users by the pointing, for example on icons or menus, and the clicking of a mouse button. Barron's Dictionary of Business Terms further discloses that it is known in the art to provide a browser to view and navigate the Internet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the system of Shavit et al. with the graphical user interface with icons and browser of Barron's Dictionary of Business Terms, in order to provide communication using visual feedback of users by pointing and clicking of a mouse and to view and navigate the Internet.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (703)308-6391.

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The examiner can normally be reached on Monday through Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703)308-5183. The fax phone number for the organization where this application or processing is assigned is (703)305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.



Elaine Gort
Examiner
3627

May 25, 2004